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PHILADELPHIA PA 19103

In re Application of:
FITZPATRICK, J., Michael, et al. : COMMUNICATION
U.S. Application No.: 10/526,754 :
PCT No.: PCT/US2004/014141 :
International Filing Date: 07 May 2004 :
Priority Date: 09 May 2003 :
Atty Docket No.: 9823-26U1 :
For: FIDUCIAL MARKER HOLDER :
SYSTEM FOR SURGERY :

This communication is issued in response to the correspondence filed 03 October 2006 regarding fees refunded to applicants' Deposit Account on 01 August 2006.

BACKGROUND

On 07 May 2004, applicants filed international application PCT/US2004/014141. The application claimed a priority date of 09 May 2003 and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 09 November 2005.

On 04 March 2005, applicants filed a Transmittal Letter for entry into the national stage in the United States that included an express request to begin national examination. The transmittal letter was accompanied by, among other materials, payment of \$1,400 in fees (including \$300 for the basic national fee) and an executed declaration.

On 01 August 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Acceptance (Form PCT/DO/EO/903) indicating that the requirements of 35 U.S.C. 371(c) were satisfied as of 04 March 2005.

Also on 01 August 2006, applicants' Deposit Account No. 50-1017 was credited with a \$100 refund and a \$300 refund.

On 03 October 2006, applicants filed the correspondence considered herein. The correspondence states that applicants should only have been accorded a \$100 fee refund; applicants therefore request that the USPTO re-charge Deposit Account No. 50-1017 the additional \$300 refunded on 01 August 2006.

DISCUSSION

The USPTO was the International Search Authority on international application PCT/US2004/014141. The appropriate U.S. national stage search fee was therefore \$100 (see 37 CFR 1.492(b)(2)).

Applicants' 04 March 2005 submission included \$500 as payment for the national stage search fee, that is, \$400 over the required fee. The 01 August 2006 refund to applicants of this \$400 overpayment was therefore appropriate.

CONCLUSION

Applicants herein have submitted payment for the appropriate U.S. basic national fee, search fee, and examination fee (as well as additional fees for the inclusion of extra independent claims).

No additional charge to applicants' Deposit Account is required for processing of the present application to continue.



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